



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,992	06/21/2005	Yvonne Auberlet de Chelle	0608-1024	9707
<div>466 7590 12/06/2010</div> <div>YOUNG & THOMPSON 209 Madison Street Suite 500 Alexandria, VA 22314</div>				
EXAMINER				
MITCHELL, JASON D				
ART UNIT		PAPER NUMBER		
2193				
NOTIFICATION DATE		DELIVERY MODE		
12/06/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/509,992

Applicant(s)

CHELLE ET AL.

Examiner

JASON MITCHELL

Art Unit

2193

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 November 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
NOTE: See *Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See *Continuation Sheet*.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Jason Mitchell/
Primary Examiner, Art Unit 2193

Continuation of 3. NOTE: The applicants assert that the term "Cybernetics" is "applicable to ... social (that is, language-based) systems. This assertion at least raises the question of whether or not the claims are directed to statutory subject matter, and will accordingly require further search and consideration. .

Continuation of 11. does NOT place the application in condition for allowance because: 112 2nd

The applicants' amendments and arguments do not overcome the previous 112 2nd rejections. For example, the claim has been amended to recite "a generic object of an attributed class" instead of "a generic object of an attributing class". This does not address the issues raised in the previous action, for example, "how the claimed components can simultaneously represent actions ... and be represented by actions". Further, the applicants' arguments only assert that "the function of breaking down a task into its steps ("sub-blocks of tasks") is readily apparent to one of ordinary skill." It is agreed that, broadly speaking, representing a process as a tree like structure was known in the prior art (see e.g. Blowers col. 8, lines 64-67 as cited in the rejection). The issue here is that the claim appears to attempt to describe specific aspects of such a tree. For example the claim recites "each of the components is represented by an action corresponding to a generic object". This language appears to indicate a functional and/or structural distinction between the "components" and the "action", but does not make clear what the applicants believe this distinction to be. The applicants' arguments and amendments do not clarify this issue. For at least these reasons, the response does not overcome the previous 112 2nd rejection of claim 1.

Similarly, the applicants have not addressed the 112 2nd issues with claim 2. Specifically, the claim appears to be directed to some form of distributed processing. While distributed processing in general is known in the art (see e.g. Taruishi col. 14, lines 7-15 as cited in the rejection) it is the details of the claimed distributed processing which are not clear. For example "a remote location of a tree structure" could reasonably be understood to describe a tree structure located at a remote location and a processing cycle that is launched at that location, or that the processing cycle is launched at a location remote from the tree structure's location. The applicants assert that the claim should be read as describing a situation where the processing cycle is performed at a location remote from the Generator 20 of Fig. 1. However the claim does not make reference to the generator, thus it would be improper to interpret the claim language in reference to the generator. Further the applicants assert that "one of skill would recognize that a [complete processing cycle] pertains to performing the task". This does not provide sufficient clarification. Instead it just changes the question from "what is meant by 'a complete processing cycle'" to "what is meant by 'a task'". If the applicants intend this limitation to refer to some form of remote procedure call it is suggested that the claim be amended to reflect this.

103(a)

The applicant disputes the examiner's understanding of the term "cybernetically", asserting that the term should be read as implying a "circular causal" relationship or feed back loop (see e.g. pg. 12, 2nd to last par. "What is implicit in this recitation is the characteristics of feedback loop, checkpoint and situation evaluation for triggering notification or feedback loops"). First the examiner does not believe the term "cybernetically" is sufficient to include the asserted limitations (e.g. feed back loop) in the claim. More specifically, the rest of the claim does not appear to describe any type of feed back. Further, it is highly debatable whether the average software developer would understand the term "cybernetics" as defined by Norbert Wiener in his book of the same name or as defined e.g. by Arnold Schwarzenegger in his film "The Terminator".

The applicants have pointed to various sections of the specification as supporting the asserted understanding of the term, however, the claims do not appear to explicitly recite the functionality described in these sections and limitations from the specification can not be read into the claims. Accordingly it is suggested that the claim be amended to explicitly recite any desired limitations.

Further, the applicants assert that the term "Cybernetics" is "applicable to ... social (that is, language-based) systems. This assertion at least raises the question of whether or not the claims are directed to statutory subject matter, and will accordingly require further search and consideration.